



MEMORANDUM

Town of Nags Head

Planning & Development Department

To: Planning Board

From: Kelly Wyatt, Deputy Director of Planning & Development
Michael Zehner, Director of Planning & Development

Date: January 17, 2020

Subject: Discussion of Large Occupancy/Event Home Regulations

At the Planning Board's December 17, 2019 meeting, it was brought to the Board's attention by Planning Board member David Elder that the Town of Kill Devil Hills had requested that the North Carolina Code Officials look at State Building codes and review the definition of "Single-Family Dwellings" vs. large "Event" Homes/"mini hotels". Mr. Elder noted that of particular concern is the ability for emergency responders to access these types of structures. Staff noted they would continue to review the subject and provide information to the Board at their January 2020 meeting.

Within the Town of Nags Head "Large Residential Dwellings" are defined as a single-family dwelling or two-family dwelling (duplex) that has 3,500 or more square feet of enclosed habitable living space. The following regulations apply to "Large Residential Dwellings":

- Homes with greater than 3,500 square feet of enclosed habitable living space can only be constructed on lots 16,000 square feet or greater in area, with the exception of within the SPD-C, Village at Nags Head District.
- The maximum enclosed habitable living space for a large residential dwelling is 5,000 square feet, with the exception of dwellings located within the SED-80 District.
- Large residential dwellings shall meet a side yard setback of fourteen (14) feet. This side yard setback may be reduced to the required side setback for the district in which the home is located should the owner voluntarily elect to comply with the Nags Head Residential Design Guidelines, requiring a minimum amount of architectural design points be obtained.
- Large residential dwellings shall either preserve a minimum of 10% of the lots total area with existing natural vegetation – OR – plant a minimum of 15% of the lots total area. A minimum of 50% of the plantings must be locally adaptive evergreen trees species. Height and caliper specifications are required for both tree and shrub species.
- The maximum permitted wastewater capacity for large residential dwellings shall not exceed 1,080 gallons per day.
- Height of large residential dwellings is the same as the town standard of 35 feet with the ability to increase height to 42 feet with the use of a minimum 8:12 roof pitch.

In January 2019 the Town of Duck adopted an ordinance to establish standards for the scale of residential development. This amendment was in response to the North Carolina General Assembly's passage of Session Law 2015-86 in June 2015 which revoked the authority of local governments to limit the number and types of rooms in a residence. In contrast to our ordinance, the Town of Duck does permit homes larger than 5,000 of enclosed living space, however, the permissible area is tied to the area of the lot. A chart of maximum residence sizes for the Town of Duck is provided below.

| Lot Size (sf) | Maximum home size (standard) | Maximum home size (large) |
|----------------------|-------------------------------------|----------------------------------|
| 9,999 or less | 3,500 sf | 3,500 sf |
| 10,000 – 14,999 | 4,000 sf | 4,000 sf |
| 15,000 – 19,999 | 5,000 sf | 5,000 sf |
| 20,000 – 24,999 | 5,500 sf | 7,000 sf |
| 25,000 – 29,999 | 6,500 sf | 8,000 sf |
| 30,000 or greater | 7,000 sf | 9,000 sf |

Keep in mind that the Town of Nags Head prohibits homes with enclosed habitable space above 5,000 sf regardless of lot size (except in the SED-80 District). Additionally, the Town of Duck has increased setbacks based upon the total size of the lot, landscape preservation or planting requirements, as well as architectural requirements for large residential dwellings.

The Town of Duck does have a “Wedding Event Registration Policy”. You can review this information at the following link: <https://www.townofduck.com/getting-married-in-duck/> . In short, this registration is for wedding-related gatherings with 50 or more attendees in a private residence in the Town of Duck. These events must be registered with the Town of Duck Department of Community Development at least thirty (30) days prior to the event date. The registration will provide information for notification of property owners, neighborhood associations, and public safety personnel and will also provide contact information for the responsible parties who could be contacted during the event if necessary.

The Town of Southern Shores defines a “Large Home Dwelling” as any residential structure exceeding the maximum size, maximum transient occupancy capacity or maximum septic capacity for such structures in the zoning district in which it is located. Large home dwellings are not a permitted use in any zoning district. Within the individual zoning districts, RS-1, RS-10 and R-1 Detached single-family dwelling and vacation cottages are a permitted use provided that such residential structure shall not be: (i) advertised to accommodate, designed for, constructed for or actually occupied by more than 14 overnight occupants when used as a vacation cottage; or (ii) have a maximum septic capacity sufficient to serve more than 14 overnight occupants. In addition, each zoning district restricts the maximum size of any single-family dwelling to 6,000 square feet of enclosed living space.

Of note, the Town of Southern Shores recently considered a zoning ordinance amendment which would impose regulations on the use of single-family dwellings for special events. A copy of the draft ordinance is included in this package; however, this ordinance was not adopted. It is noted that the purpose of the drafted revisions was to ensure that special events take into account and are managed such that the public health, safety or welfare of the citizens and visitors to the Town who attend those events or live in the vicinity of the events are taken into account. The draft ordinance required that a free of charge permit be sought for any event expected to have more seventy-five (75) attendees. Events held at authorized event facilities, events held at commercial facilities, events held or managed by the Town, and events within established institutional uses were exempt from the requirement to obtain a permit.

Some key takeaways of the proposed ordinance are below:

Limited Special Event (75 – 125 attendees)

- For a Limited Special Event (75 – 125 attendees) an application must be received 14 days in advance of the event.
- The applicant must provide the date, time and location of the event as well as the contact information for the person in control of the event.
- A certification by the applicant that they are aware of and intend for the event to comply with all requirements of the Town's Code of Ordinances with regard to zoning, nuisance, noise, lights and other relevant provisions.
- Sketch plan of the property and structures showing the expected location of attendees, points of ingress and egress to any structures and location of any hazardous materials such as fuel or gas.
- A certification that sufficient parking for the event has been provided via onsite parking or special offsite parking agreements.
- A certification that the contact person will at all times have on their person (i) the phone associated with the contact information; (ii) a copy of the special events permit issued; and (iii) a list of attendees that can be used to determine whether anyone is unaccounted for in an emergency.
- If the event is to be held on a property adjacent to NC 12 during the period between Memorial Day and Labor Day, the applicant must provide a traffic management plan showing how traffic to the site will be managed in such a way to avoid unreasonable additional congestion upon NC 12.
- For any special event at which food or drink will be served or that will occur over a more than four-hour period, a certification by the applicant that at least one temporary wastewater facility or portable toilet will be onsite.

Large Special Events (greater than 125 expected attendees)

- For Large Special Events (greater than 125 expected attendees) an application must be received 30 days in advance of the event. In addition to the requirements for a Limited Special Event, the applicant for Large Special Event must certify that any exterior decks being used by attendees are structurally sound to support the potential use users of the deck or, must allow the Town's building inspector to inspect the decks to determine whether an engineer's certification is required.

- In is the discretion of the police chief or the fire chief or their designee, the applicant shall allow for an inspection of the exterior grounds of the property to determine potentially dangerous conditions on the property and to determine how best to access the property and structures in case of fire or emergency during the special event.
- A traffic management plan showing how traffic will be managed to avoid unreasonable congestion on any adjacent roadways.
- A certification that sufficient parking for the event has been provided onsite and/or offsite with the appropriate agreement in place and narrative and site plan showing all proposed parking supporting the event.
- A certification that the designated person to contact under the application will have access to first-aid supplies on-site in sufficient quantities to address minor injuries to at least 10% of the expected attendees.

At any special event, if alcohol is to be served or sold, the applicant shall obtain any necessary approvals from the Alcoholic Beverage Control Commission and must make such documentation available upon request and must certify on their application that the approvals, if any were required, have been obtained and will be complied with during the event. Additionally, if tents are to be used for any special event requiring a permit, the applicant shall obtain any necessary approvals required under the North Carolina Fire Code and must make such documentation available upon request on certify that it will be complied with during the event.

In summary, reviewing the allowances of other nearby towns, the Town of Nags Head currently has the most restrictive regulations on permissible living area for large residential dwellings, however, there may be some merit to discussing certain aspects of regulating special events within the Town. While the ordinance drafted by the Town of Southern Shores was very extensive, it may provide some discussion points for the Planning Board in moving forward with regulations if so desired.

Planning staff will be available at the January 21, 2020 Planning Board to discuss this item further.